

103 KAR 17:100. Division of income between married individuals filing separate tax returns.

RELATES TO: KRS 141.020, 141.300, 141.305

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the department to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This administrative regulation establishes the requirements for determining how income derived from joint ownership of property and self-employment is divided among married individuals filing separate tax returns.

Section 1. Income derived from the joint ownership of real property, tangible personal property, or intangible property shall be divided equally by married individuals filing separate tax returns. Income derived from property not held jointly shall be attributable to its individual owner.

Section 2. Income derived from self-employment by a husband and wife filing separate tax returns.

(1) Income derived from self-employment by a husband and wife filing separate tax returns shall be divided according to the percentage amount of each spouse's contribution of services and capital, unless self-employment taxes have been paid by each spouse separately, or a partnership agreement provides evidence of separate income.

(2) The following shall serve as an example.

	Capital Contri- butions		Services Contri- butions			
Hus- band	30%	+	75%	=	$105/2$	=
					53%	
Wife	70%	+	25%	=	$95/2$	=
					47%	

Section 3. If a joint declaration of estimated tax is made by a husband and wife, but a joint return is not made for the same taxable year, the joint estimated tax payments for the taxable year shall be divided in the same manner as provided under Internal Revenue Code Section 6015, 26 U.S.C. 6015. (32 Ky.R. 2205; 33 Ky.R. 77; eff. 8-7-2006.)